



[Billing Code: 4810–31–P]

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2018–0006; T.D. TTB–155; Ref: Notice No. 175]

RIN: 1513–AC39

Establishment of the Van Duzer Corridor Viticultural Area and Clarification of the Eola-Amity Hills Viticultural Area Boundary Description

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) establishes the approximately 59,871-acre “Van Duzer Corridor” viticultural area in Polk and Yamhill Counties, Oregon. The viticultural area lies entirely within the established Willamette Valley viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. TTB also clarifies the boundary description of the adjacent Eola-Amity Hills viticultural area.

DATES: This final rule is effective [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Kaori Flores, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; phone 202–453–1039, ext. 3190.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120–01, dated December 10, 2013 (superseding Treasury Order 120–01, dated January 24, 2003), to the TTB Administrator to perform the functions and duties in the administration and enforcement of these laws.

Part 4 of the TTB regulations (27 CFR part 4) authorizes TTB to establish definitive viticultural areas and regulate the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission to TTB of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features, as described in part 9 of the regulations, and a name and a delineated boundary, as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to the wine's geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and provides that any interested party may petition TTB to establish a grape-growing region as an AVA. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for the establishment or modification of AVAs. Petitions to establish an AVA must include the following:

- Evidence that the area within the proposed AVA boundary is nationally or locally known by the AVA name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed AVA;

- A narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed AVA distinctive and distinguish it from adjacent areas outside the proposed AVA boundary;
- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed AVA, with the boundary of the proposed AVA clearly drawn thereon; and
- A detailed narrative description of the proposed AVA boundary based on USGS map markings.

Van Duzer Corridor Petition

TTB received a petition from Mr. Jeff Havlin, the owner of Havlin Vineyard and chair of the Van Duzer Corridor AVA Committee, on behalf of himself and other local grape growers and vintners proposing the establishment of the “Van Duzer Corridor” AVA in portions of Yamhill and Polk Counties.

The proposed Van Duzer Corridor AVA is located in Oregon and lies entirely within the established Willamette Valley AVA (27 CFR 9.90) and covers approximately 59,871 acres. There are 17 commercially-producing vineyards covering a total of approximately 1,000 acres, as well as 6 wineries, within the proposed AVA.

According to the petition, the distinguishing features of the proposed Van Duzer Corridor AVA are its topography, climate, and soils. The topography of the proposed Van Duzer Corridor is characterized by low elevations and gently rolling hills. The low elevations allow cool breezes to flow relatively unimpeded

from the Pacific Ocean, through the Coastal Ranges, forming a wind corridor gap known as the “Van Duzer Corridor.” The western end of the Van Duzer Corridor wind gap is narrow and squeezed by high elevations to the north and south, leaving little room for viticulture. However, the eastern end of the Van Duzer Corridor wind gap, where the proposed Van Duzer Corridor AVA is located, features the same low elevations, and rolling hills as the western portion, with the distinction of having a wider area suitable for vineyards. Within the Van Duzer Corridor AVA, the elevation does not impede the eastward-flowing marine air, allowing higher wind speeds to flow through. In contrast, the surrounding regions all have higher elevations.

Additionally, the climate of the proposed Van Duzer Corridor AVA is characterized by consistent high wind speeds and low cumulative growing degree day (GDD) accumulations¹. The consistently high winds in the proposed AVA contribute to thicker grape skins, and raise the levels of phenolic compounds in the fruit. In contrast, the wind speeds to the north and south-southeast of the proposed AVA are slower. The proposed Van Duzer Corridor has lower GDD accumulations than the surrounding regions to the north and southeast, indicating that its temperatures are generally cooler. The cooler temperatures ripen the fruit slowly, creating a longer hang time than for the same grape varietal grown in a region with higher GDD accumulations. The longer hang time contributes to a reduced acidity level. TTB notes that the petition did

¹ In the Winkler climate classification system, annual heat accumulation during the growing season, measured in annual growing degree days (GDDs), defines climatic regions. One GDD accumulates for each degree Fahrenheit that a day’s mean temperature is above 50 degrees, the minimum temperature required for grapevine growth. See Albert J. Winkler, *General Viticulture* (Berkeley: University of California Press, 1974), pages 61–64.

not include wind speed data and GDD accumulations for the regions to the west and south-southwest of the proposed AVA.

Lastly, the soils of the proposed Van Duzer Corridor AVA are primarily uplifted marine sedimentary loams and silts with alluvial overlay, as well as some uplifted basalt. The soils are typically shallow, well-drained, and have a bedrock of siltstone. The high silt and clay levels in the soils balance the overall pH level of the soil by buffering against a sudden increase or decrease in soil pH. The buffering effect is beneficial to vineyards because it boosts the ability of the soils to maintain a stable pH level. In contrast, the soils immediately outside the northern and western boundaries contain soils from different soil series. Farther north and west, the soils contain higher concentrations of basalt and other volcanic materials. In contrast, east of the proposed Van Duzer Corridor AVA, within the Eola-Amity Hills AVA (27 CFR 9.202), the soils contain larger amounts of volcanic material than the proposed AVA. Additionally, south of the proposed AVA, the soils contain large concentrations of Ice Age loess, which is not found in the proposed Van Duzer Corridor AVA.

Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 175 in the **Federal Register** on April 6, 2018 (83 FR 14795), proposing to establish the Van Duzer Corridor AVA. In the notice, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed AVA. The notice also compared the distinguishing features of the proposed AVA to the surrounding areas. For a detailed description of the evidence relating to the name, boundary,

and distinguishing features of the proposed AVA, and for a detailed comparison of the distinguishing features of the proposed AVA to the surrounding areas, see Notice No. 175.

In Notice No. 175, TTB solicited comments on the accuracy of the name, boundary, and other required information submitted in support of the petition. In addition, given the proposed Van Duzer Corridor AVA's location within the Willamette Valley AVA, TTB solicited comments on whether the evidence submitted in the petition regarding the distinguishing features of the proposed AVA sufficiently differentiates it from the Willamette Valley AVA. Finally, TTB requested comments on whether the geographic features of the proposed AVA are so distinguishable from the Willamette Valley AVA that the proposed Van Duzer Corridor AVA should no longer be part of the established AVA. The comment period closed June 5, 2018.

Comments Received on the Proposed Van Duzer Corridor AVA

In response to Notice No. 175, TTB received a total of 18 comments. Commenters included local residents, members of the wine industry, several vineyard employees, wine consultants, and consumers. All of the comments generally supported the establishment of the proposed Van Duzer Corridor AVA, with six of the commenters noting the effects of the proposed AVA's higher wind speeds on the grape skins. Four of the commenters also supported the establishment of the proposed Van Duzer Corridor AVA due to the marine sedimentary soils and the unique topography. None of the comments opposed the establishment of the proposed AVA.

TTB received one comment that supported the establishment of the proposed AVA, but the commenter also suggested “Salt Creek” as an “equally suitable” and “much more pleasant” name. However, TTB regulations require a proposed AVA name to be supported by evidence that demonstrates the name is currently used to refer to the proposed AVA. See § 9.12(a)(1). The commenter did not submit evidence of the current use of the name “Salt Creek” to refer to the region of the proposed AVA, nor did she provide any documentation refuting the evidence provided in the petition in support of the name “Van Duzer Corridor.” Therefore, TTB cannot determine that “Salt Creek” is a more appropriate name for the proposed AVA than “Van Duzer Corridor.”

Another comment asked if the word “corridor” could be omitted from the AVA name when used as an appellation of origin on wine labels. Section 9.12(a)(1) requires an AVA name to be supported by evidence of current use of the name to refer to the region. Because neither the commenter nor the petitioner provided name evidence that the area is simply known as “Van Duzer,” TTB cannot determine if “Van Duzer,” standing alone, would be an appropriate alternative name for the proposed AVA. As a result, TTB would only allow the full AVA name “Van Duzer Corridor” to be used as an appellation of origin on a wine label once the proposed AVA is established. However, TTB did not propose to designate the phrase “Van Duzer” as a term of viticultural significance with respect to this proposed AVA, since doing so could have an adverse effect on current labels that use “Van Duzer” as part of a brand name. Therefore, if the proposed AVA is established, the phrase “Van Duzer” (without the word

“corridor”) may be used as a brand name or as part of a brand name on wine labels without having to meet the appellation of origin eligibility requirements for the Van Duzer Corridor viticultural area.

Clarification of the Eola–Amity Hills AVA Boundary Description

Because one of the established Eola-Amity Hills AVA boundaries is concurrent with the boundary of the proposed Van Duzer Corridor AVA, TTB also proposed in Notice No. 175 to clarify the description of portions of the Eola–Amity Hills AVA boundary. The clarifications were proposed to correct errors in the current description of the boundary. TTB received no comments on the proposed boundary clarifications during the public comment period for Notice No. 175. Therefore, TTB is proceeding with clarifying the description of the Eola-Amity Hills AVA boundary in this document.

The first boundary clarification concerns the description of the beginning point of the AVA boundary. The Eola-Amity Hills AVA boundary description shall now begin at the intersection of State Highway 22 and Rickreall Road instead of the intersection of State Highway 22 and 223, which is located west of the town of Rickreall, Oregon. TTB believes the erroneous description of the Eola–Amity Hills boundary beginning point resulted from a misreading of the markings for State Highway 223 on the Rickreall, Oregon map. TTB also believes that Oregon wine industry members always have understood the Eola-Amity Hills AVA boundary to begin at the intersection of State Highway 22 rather than at the currently-described beginning point. TTB notes that commercially-produced maps of the Eola–Amity Hills AVA show its boundary located at the intersection

of State Highway 22 and Rickreall Road. For example, see the Eola-Amity Hills AVA maps posted at <http://eolaamityhills.com/explore-our-region/regional-map/> and http://www.everyvine.com/wine-regions/region/Eola_-_Amity_Hills/.

Additionally, TTB is further amending the Eola-Amity Hills boundary descriptions for clarity. TTB is removing the word “township” from “township of Bethel” to add a more precise description of the point where the AVA’s boundary intersects the 200-foot contour line, and to minimize confusion since Bethel appears on the Amity, Oregon Map as the name of a crossroads, not as the name of a political or geographic township. TTB is also clarifying the direction in which the Eola-Amity Hills AVA boundary proceeds along the 200-foot contour line from Oak Grove Road, to clarify the point at which that contour line intersects Zena Road, and to clarify that the boundary follows Zena Road for a short distance to its intersection with Oak Grove Road south of Bethel. TTB is also clarifying that the AVA boundary follows Frizzell Road to the road’s first intersection with the 200-foot contour line. Lastly, TTB is clarifying that, in returning to the AVA’s boundary’s beginning point, the boundary crosses from the Amity, Oregon map onto the Rickreall, Oregon map. TTB believes the correction and clarifications will not affect the ability of any bottler to use the Eola- Amity Hills AVA name on a wine label.

TTB Determination

After careful review of the petition and the comments received in response to Notice No. 175, TTB finds that the evidence provided by the petitioner supports the establishment of the Van Duzer Corridor AVA. Accordingly, under the authority of the FAA Act, section 1111(d) of the Homeland Security Act of 2002, and part 4 of the TTB regulations, TTB establishes the “Van Duzer Corridor” AVA in portions of Yamhill and Polk Counties, Oregon, effective 30 days from the publication date of this document.

TTB has also determined that the Van Duzer Corridor AVA will remain part of the established Willamette Valley AVA. As discussed in Notice No. 175, the proposed Van Duzer Corridor shares some broad characteristics with the established AVA. For example, elevations within the proposed AVA are below 1,000 feet, and the soils are primarily silty loams and clay loams. However, the proposed Van Duzer Corridor AVA’s location at the eastern end of the only wind gap in the portion of the Coastal Ranges that borders the Willamette Valley AVA creates a unique microclimate with persistently high wind speeds and lower growing degree day accumulations. The grapes grown in the proposed AVA have different physical characteristics, such as thicker grape skins, and maturation rates than the same varieties grown in other parts of the Willamette Valley AVA.

Boundary Description

See the narrative description of the boundary of the Van Duzer Corridor AVA in the regulatory text published at the end of this final rule.

Maps

The petitioner provided the required maps, and they are listed below in the regulatory text.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be labeled with an AVA name or with a brand name that includes an AVA name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has a brand name containing an AVA name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

With the establishment of this AVA, its name, "Van Duzer Corridor" will be recognized as a name of viticultural significance under § 4.39(i)(3) of the TTB regulations (27 CFR 4.39(i)(3)). The text of the regulation clarifies this point. Consequently, wine bottlers using the name "Van Duzer Corridor" in a brand name, including a trademark, or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use the AVA name as an

appellation of origin. TTB is not designating the phrase “Van Duzer” as a term of viticultural significance, in order to avoid a potential negative effect on current labels that use “Van Duzer” as part of a brand name on wine labels. Therefore, if the proposed AVA is established, the phrase “Van Duzer” (without the word “corridor”) may be used as a brand name or as part of a brand name on wine labels without having to meet the appellation of origin eligibility requirements for the Van Duzer Corridor viticultural area.

The establishment of the Van Duzer Corridor AVA will not affect any existing AVA, and any bottlers using “Willamette Valley” as an appellation of origin or in a brand name for wines made from grapes grown within the Willamette Valley AVA will not be affected by the establishment of this new AVA. The establishment of the Van Duzer Corridor AVA will allow vintners to use “Van Duzer Corridor” and “Willamette Valley” as appellations of origin for wines made primarily from grapes grown within the Van Duzer Corridor AVA if the wines meet the eligibility requirements for the appellation.

Regulatory Flexibility Act

TTB certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of an AVA name would be the result of a proprietor’s efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

It has been determined that this final rule is not a significant regulatory action as defined by Executive Order 12866 of September 30, 1993. Therefore, no regulatory assessment is required.

Drafting Information

Kaori Flores of the Regulations and Rulings Division drafted this final rule.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

For the reasons discussed in the preamble, TTB amends title 27, chapter I, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

2. Amend § 9.202 by revising paragraphs (c)(1), (12), (13), (15), and (16) to read as follows:

§ 9.202 Eola-Amity Hills.

* * * * *

(c) * * *

(1) The beginning point is on the Rickreall, Oregon, map at the intersection of State Highway 22 and Rickreall Road, near the Oak Knoll Golf Course, in section 50, T7S, R4W;

* * * * *

(12) Follow Old Bethel Road, which becomes Oak Grove Road, south until the road intersects the 200-foot contour line approximately 400 feet north of Oak Grove Road's northern intersection with Zena Road, just northwest of Bethel; then

(13) Follow the 200-foot contour line easterly and then southerly until its first intersection with Zena Road, and then follow Zena Road west approximately 0.25 mile to its southern intersection with Oak Grove Road, south of Bethel; then

* * * * *

(15) Follow Frizzell Road west for approximately 0.25 mile to its first intersection with the 200-foot contour line, then

(16) Follow the 200-foot contour line generally south, crossing onto the Rickreall, Oregon, map, until the contour line intersects the beginning point.

3. Subpart C is amended by adding § 9.265 to read as follows:

§ 9.265 Van Duzer Corridor.

(a) Name. The name of the viticultural area described in this section is “Van Duzer Corridor”. For purposes of part 4 of this chapter, “Van Duzer Corridor” is a term of viticultural significance.

(b) Approved maps. The five United States Geological Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the Van Duzer Corridor viticultural area are titled:

- (1) Sheridan, Oreg., 1956; revised 1992;
- (2) Ballston, Oreg., 1956; revised 1992;

(3) Dallas, Oreg., 1974; photorevised 1986;

(4) Amity, Oreg., 1957; revised 1993; and

(5) Rickreall, Oreg., 1969; photorevised 1976;

(c) Boundary. The Van Duzer Corridor viticultural area is located in Polk and Yamhill Counties, in Oregon. The boundary of the Van Duzer Corridor viticultural area is as described below:

(1) The beginning point is on the Sheridan map at the intersection of State Highway 22 and Red Prairie Road. From the beginning point, proceed southeasterly along State Highway 22 for a total of 12.4 miles, crossing over the Ballston and Dallas maps and onto the Rickreall map, to the intersection of the highway with the 200-foot elevation contour west of the Oak Knoll Golf Course; then

(2) Proceed north on the 200-foot elevation contour, crossing onto the Amity map, to the third intersection of the elevation contour with Frizzell Road; then

(3) Proceed east on Frizzell Road for 0.3 mile to the intersection of the road with Oak Grove Road; then

(4) Proceed north along Oak Grove Road for 1.7 miles to the intersection of the road with Zena Road; then

(5) Proceed east on Zena Road for approximately 0.25 mile to the second intersection of the road with the 200-foot elevation contour; then

(6) Proceed northwest along the 200-foot elevation contour to the intersection of the elevation contour with Oak Grove Road; then

(7) Proceed north along Oak Grove Road (which becomes Old Bethel Road) approximately 7.75 miles to the intersection of the road with Patty Lane; then

(8) Proceed west in a straight line for a total of 10.8 miles, crossing over the Ballston map and onto the Sheridan map, to the intersection of the line with State Highway 18; then

(9) Proceed southwest along State Highway 18 for 0.3 miles to the intersection of the highway with Red Prairie Road; then

(10) Proceed south along Red Prairie Road for approximately 5.3 miles, returning to the beginning point.

Signed: October 9, 2018.

John J. Manfreda,

Administrator.

Approved: December 4, 2018.

Timothy E. Skud,

Deputy Assistant Secretary
(Tax, Trade, and Tariff Policy).

[FR Doc. 2018-27017 Filed: 12/13/2018 8:45 am; Publication Date: 12/14/2018]